

MISC. CIVIL APPLICATION NO. 146 OF 1989.

Date of decision: 8.1.1996.

For approval and signature

The Honourable Mr. Justice S. M. Soni

and

The Honourable Mr. Justice R. R. Jain

Mrs. Hiraben R. Joshi, advocate for petitioner.

Mr. T.H. Sompura, A.G.P. for respondent No.2.

Respondent No.1-served.

1. Whether Reporters of Local Papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram: S.M. Soni & R.R. Jain, JJ.

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January 8, 1996.

Oral judgment (Per Soni, J.)

Learned advocates for the parties are absent.

Petitioner has filed this application for taking action under Contempt of Courts Act on the ground of non-compliance of the order passed by the Gujarat

Secondary Education Tribunal on 14.7.1988 in Application No.429 of 1986. By the said order, the Tribunal held that the petitioner continues in the opponent school as an Assistant Teacher or as the First Assistant being the senior most teacher. It was further declared that the applicant was entitled to salary in the pay scale of Rs.440-750 with effect from 16.7.1985. As per averment in para 4 of the petition, the applicant has resumed duty in the school but he is not paid backwages and, therefore, this application is filed.

So far as backwages are concerned, in view of our judgment in Misc. Civil Application No.1949 of 1994, the order is executable under the provisions of the Civil Procedure Code. As the order is executable, we would not like to exercise our jurisdiction under the Contempt of Courts Act in the matter. Hence, the application is liable to be dismissed and is hereby dismissed. Rule discharged. No costs.